

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 490

Introduced by Tyson, 19

Read first time January 16, 2003

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to emergency management; to amend sections
2 81-829.36 and 81-829.42, Reissue Revised Statutes of
3 Nebraska; to create the Emergency Management,
4 Preparedness, and Assistance Trust Fund; to impose a
5 surcharge as prescribed; to provide powers and duties for
6 the Department of Insurance and the Nebraska Emergency
7 Management Agency; to harmonize provisions; and to repeal
8 the original sections.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-829.36, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 81-829.36. Sections 81-829.36 to 81-829.75 and sections
4 3 to 6 of this act shall be known and may be cited as the Emergency
5 Management Act.

6 Sec. 2. Section 81-829.42, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 81-829.42. (1) The Legislature recognizes that, while
9 appropriations are adequate to meet the normal needs, the necessity
10 exists for anticipating and making advance provision to care for
11 the unusual and extraordinary burdens imposed on the state and its
12 political subdivisions by disasters, emergencies, or civil defense
13 emergencies. To meet such situations, it is the intention of the
14 Legislature to confer emergency powers on the Governor, acting
15 through the Adjutant General and the Nebraska Emergency Management
16 Agency, and to vest him or her with adequate power and authority
17 within the limitation of available funds in the Governor's
18 Emergency Fund to meet any disaster, emergency, or civil defense
19 emergency.

20 (2) There is hereby established the Governor's Emergency
21 Fund. The fund shall be expended, upon direction of the Governor,
22 for any state of emergency. The state of emergency proclamation
23 shall set forth the emergency and shall state that it requires the
24 expenditure of public funds to furnish immediate aid and relief.
25 The Adjutant General shall administer the fund. Any money in the
26 fund available for investment shall be invested by the state
27 investment officer pursuant to the Nebraska Capital Expansion Act
28 and the Nebraska State Funds Investment Act.

1 (3) It is the intent of the Legislature that the first
2 recourse shall be to funds regularly appropriated to state and
3 local agencies. If the Governor finds that the demands placed upon
4 these funds are unreasonably great, he or she may make funds
5 available from the Governor's Emergency Fund. Expenditures may be
6 made upon the direction of the Governor for any or all emergency
7 management functions or to meet the intent of the state emergency
8 operations plans as outlined in section 81-829.41. Expenditures
9 may also be made to state and federal agencies to meet the matching
10 requirement of any applicable assistance programs. For purposes of
11 this subsection, funds allocated from the Emergency Management,
12 Preparedness, and Assistance Trust Fund pursuant to sections 3 to 6
13 of this act shall not qualify as funds regularly appropriated to
14 state and local agencies.

15 (4) Assistance shall be provided from the Governor's
16 Emergency Fund to political subdivisions of this state which have
17 suffered from a disaster, emergency, or civil defense emergency to
18 such an extent as to impose a severe financial burden exceeding the
19 ordinary capacity of the subdivision affected. Applications for
20 aid under this section shall be made to the Nebraska Emergency
21 Management Agency on such forms as shall be prescribed and
22 furnished by the agency. The forms shall require the furnishing of
23 sufficient information to determine eligibility for aid and the
24 extent of the financial burden incurred. The agency may call upon
25 other agencies of the state in evaluating such applications. The
26 Adjutant General shall review each application for aid under this
27 section and recommend its approval or disapproval, in whole or in
28 part, to the Governor. If the Governor approves, he or she shall

1 determine and certify to the Adjutant General the amount of aid to
2 be furnished. The Adjutant General shall thereupon issue his or
3 her voucher to the Director of Administrative Services who shall
4 issue his or her warrants therefor to the applicant.

5 (5) When a state of emergency has been proclaimed by the
6 Governor, the Adjutant General, upon order of the Governor, shall
7 have authority to expend funds for purposes including, but not
8 limited to:

9 (a) The purposes of the Emergency Management Act,
10 including emergency management functions and the responsibilities
11 of the Governor as outlined in the act;

12 (b) Employing for the duration of the state of emergency
13 additional personnel and contracting or otherwise procuring all
14 necessary appliances, supplies, and equipment;

15 (c) Performing services for and furnishing materials and
16 supplies to state government agencies and local governments with
17 respect to performance of any duties enjoined by law upon such
18 agencies and local governments which they are unable to perform
19 because of extreme climatic phenomena and receiving reimbursement
20 in whole or in part from such agencies and local governments able
21 to pay therefor under such terms and conditions as may be agreed
22 upon by the Adjutant General and any such agency or local
23 government;

24 (d) Performing services for and furnishing materials to
25 any individual in connection with alleviating hardship and distress
26 growing out of extreme climatic phenomena and receiving
27 reimbursement in whole or in part from such individual under such
28 terms as may be agreed upon by the Adjutant General and such

1 individual;

2 (e) Opening up, repairing, and restoring roads and
3 highways;

4 (f) Repairing and restoring bridges;

5 (g) Furnishing transportation for supplies to alleviate
6 suffering and distress;

7 (h) Restoring means of communication;

8 (i) Furnishing medical services and supplies to prevent
9 the spread of disease and epidemics;

10 (j) Quelling riots and civil disturbances;

11 (k) Training individuals or governmental agencies for the
12 purpose of perfecting the performance of emergency management
13 duties as provided in the Nebraska emergency operations plans;

14 (l) Procurement and storage of special emergency supplies
15 or equipment, determined by the Adjutant General to be required to
16 provide rapid response by state government to assist local
17 governments in impending or actual disasters, emergencies, or civil
18 defense emergencies;

19 (m) Clearing or removing debris and wreckage which may
20 threaten public health or safety from publicly owned or privately
21 owned land or water; and

22 (n) Such other measures as are customarily necessary to
23 furnish adequate relief in cases of disaster, emergency, or civil
24 defense emergency.

25 (6) If aerial fire suppression is immediately required,
26 the Adjutant General may make expenditures of up to ten thousand
27 dollars per event without a state of emergency proclamation issued
28 by the Governor.

1 (7) The Governor may receive such voluntary contributions
2 as may be made from any source to aid in carrying out the purposes
3 of this section and shall credit the same to the Governor's
4 Emergency Fund.

5 (8) All obligations and expenses incurred by the Governor
6 in the exercise of the powers and duties vested in the Governor by
7 this section shall be paid by the State Treasurer out of available
8 funds in the Governor's Emergency Fund, and the Director of
9 Administrative Services shall draw his or her warrants upon the
10 State Treasurer for the payment of such sum, or so much thereof as
11 may be required, upon receipt by him or her of proper vouchers duly
12 approved by the Adjutant General.

13 (9) This section shall be liberally construed in order to
14 accomplish the purposes of the Emergency Management Act and to
15 permit the Governor to adequately cope with any disaster,
16 emergency, or civil defense emergency which may arise, and the
17 powers vested in the Governor by this section shall be construed as
18 being in addition to all other powers presently vested in him or
19 her and not in derogation of any existing powers.

20 (10) Such funds as may be made available by the
21 government of the United States for the purpose of alleviating
22 distress from disasters, emergencies, and civil defense emergencies
23 may be accepted by the State Treasurer and shall be credited to the
24 fund unless otherwise specifically provided in the act of Congress
25 making such funds available.

26 Sec. 3. The Emergency Management, Preparedness, and
27 Assistance Trust Fund is created. The Nebraska Emergency
28 Management Agency shall administer the fund. The fund shall

1 consist of money collected from the surcharge on residential and
2 commercial property insurance policies pursuant to section 4 of
3 this act. The fund shall be used to provide funds for emergency
4 management, preparedness, and assistance pursuant to section 6 of
5 this act.

6 Any money in the fund available for investment shall be
7 invested by the state investment officer pursuant to the Nebraska
8 Capital Expansion Act and the Nebraska State Funds Investment Act.

9 Sec. 4. An annual surcharge of two dollars shall be
10 imposed on the property insurance policy of every homeowner, owner
11 of a mobile home, tenant, and condominium unit owner in this state
12 issued or renewed on or after the effective date of this act. An
13 annual surcharge of four dollars shall be imposed on every
14 commercial fire, commercial multiple peril, and business owner's
15 property insurance policy issued or renewed on or after the
16 effective date of this act. The surcharge shall be paid by the
17 policyholder to the insurer. The insurer shall collect the
18 surcharge and remit it to the Department of Insurance, which shall
19 collect, administer, audit, and enforce the surcharge pursuant to
20 section 5 of this act. The surcharge is not to be considered
21 premiums of the insurer, but nonpayment of the surcharge by the
22 insured may be a valid reason for cancellation of the policy. All
23 proceeds of the surcharge shall be remitted to the State Treasurer
24 for credit to the Emergency Management, Preparedness, and
25 Assistance Trust Fund and shall not be used to supplant existing
26 funding in the Governor's Emergency Fund or other funds received to
27 carry out the provisions of the Emergency Management Act.

28 Sec. 5. The Department of Insurance shall adopt and

1 promulgate rules and regulations and prescribe the forms necessary
2 to carry out the purposes of sections 3 and 4 of this act.

3 Sec. 6. (1) The Nebraska Emergency Management Agency
4 shall allocate the funds appropriated from the Emergency
5 Management, Preparedness, and Assistance Trust Fund as follows:

6 (a) Sixty percent to implement and administer state and
7 city, village, county, or interjurisdictional emergency management
8 programs, including training;

9 (b) Ten percent to administer the fund;

10 (c) Twenty percent to the Governor's Emergency Fund; and

11 (d) Ten percent for grants and loans to city, village,
12 county, or interjurisdictional emergency management organizations
13 to implement projects which will further state and local emergency
14 management objectives pursuant to section 81-829.37. The projects
15 shall include, but not be limited to, projects which will promote
16 public education on disaster preparedness and recovery issues, and
17 improve the training and operations capabilities of agencies
18 assigned lead or support responsibilities in the emergency
19 operations plan, including the State Fire Marshal for coordinating
20 statewide fire services.

21 (2) No more than five percent of any award made pursuant
22 to subsection (1) of this section may be used by a local emergency
23 management agency or organization for administrative purposes. The
24 distribution formula provided in subsection (1) of this section may
25 be adjusted proportionally when necessary to meet any matching
26 requirements imposed as a condition of receiving federal disaster
27 relief assistance or planning funds.

28 (3) The Nebraska Emergency Management Agency shall adopt

1 and promulgate rules and regulations to establish the criteria and
2 procedures used to allocate funds from the Emergency Management,
3 Preparedness, and Assistance Trust Fund to city, village, county,
4 or interjurisdictional emergency management organizations and
5 programs. The criteria shall include, but not be limited to:

6 (a) Specifying a formula that establishes a base grant
7 allocation and weighted factors for funds to be allocated over the
8 base grant amount;

9 (b) Specifying match requirements;

10 (c) Permitting preferential funding in order to provide
11 incentives for counties and local governments to participate in
12 mutual aid agreements; and

13 (d) Requiring that, at a minimum, a city, village,
14 county, or interjurisdictional emergency management organization
15 fulfill the requirements of subsection (2) of section 81-829.46.

16 (4) If adequate funds are available, every county and
17 interjurisdictional emergency management organization having a
18 full-time program shall receive funds at least sufficient to fund a
19 full-time director or coordinator position.

20 Sec. 7. Original sections 81-829.36 and 81-829.42,
21 Reissue Revised Statutes of Nebraska, are repealed.